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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.	Rulemaking R.06-04-009

COMMENTS OF THE GREEN POWER INSTITUTE ON THE PROPOSED DECISION OF PRESIDENT PEEVEY

February 28, 2008

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Introduction

Pursuant to Rules 14.3 and 14.6 of the Commission's Rules of Practice and Procedure, the Green Power Institute (GPI) respectfully submits these *Comments of the Green Power Institute on the Proposed Decision of President Peevey*, in R.06-04-009, the **Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies**. Our Comments focus on the issues of stretch goals for the RPS program, deliverer point-of-regulation and price signals, and allowance allocation and distribution.

Stretch Goals for the RPS Program

As one of the principals to California's *Energy Action Plan II* (EAP), the Commission embraced, in 2005, the RPS program stretch goal for the state of achieving 33 percent renewable content in its electricity by 2020. Thirty-three percent renewables by 2020 is also the Governor's goal, and might very well be written into statute in the current legislative session. We are perplexed, therefore, by the Commission's apparent retreat from this worthy benchmark in the *Proposed Decision* (PD) under consideration here.

The PD's summary on the electricity sector, Section 1.1, begins by reaffirming the EAP's loading order as the proper guide to preferred procurement, and identifies efficiency and renewables as the "best available approaches to drive GHG reductions in California's electricity sector (PD, pg. 3)." Nevertheless, in the very next paragraph, the PD's recommendation for renewables is lukewarm at best, and does not even mention the Commission's previously-adopted goal of 33 percent renewables by 2020:

> For electricity from renewable energy, we recommend that the requirements go beyond the current 20% requirement, consistent with State policy, but leave open consideration of exact percentage requirements or deadlines, pending further analysis (PD, pg. 3).

Considering the fact that compliance with AB 32, which is the ultimate objective of this PD, only strengthens the imperative for adopting an aggressive stretch goal for the RPS program, there is no good reason, as far as the GPI is concerned, for the Commission to step back from the EAP's adopted long-term renewables goal at this point in time. Note that unless or until the legislature codifies the 33 percent by 2020 goal into statute it remains just a goal, not a mandate. We urge the Commission to strengthen its long-term renewables recommendation in the PD, as follows (additions in blue bold):

> For electricity from renewable energy, we recommend that the requirements go beyond the current 20% **by 2010** requirement, **to the EAP's stretch goal of 33% by 2020,** consistent with State policy, but leave open consideration of exact percentage requirements or deadlines, pending further analysis.

Rather than retreating from the EAP's 33 percent renewables by 2020 goal in this PD, in favor of a much less specific goal of going "beyond the current 20 percent requirement" pending further analysis, the PD should embrace the Commission's own 33 percent by 2020 goal, while allowing adjustment of the benchmark subject to further analysis.

Deliverer Point-of-Regulation and Price Signals

The PD correctly adopts a hybrid system for regulating greenhouse emissions, including continued and augmented programmatic requirements for preferred resources (efficiency, renewables), and a cap-and-trade system to achieve additional greenhouse gas reductions by using market mechanisms to select the lowest-cost alternatives. In designing the recommended cap-and-trade program, one of the fundamental decisions taken in the PD is to adopt a deliverer-based point-of-regulation compliance system, consistent with the recommendations of the Market Advisory Committee report to CARB. The deliverer is defined as the entity that introduces power into the California grid, including in-state power plants that are interconnected to the grid, and whatever entities (generators, marketers, utilities, etc.) import power into the California grid for use in the state. This approach requires all deliverers of fossil-based electricity to obtain emissions allowances to offset their greenhouse gas emissions. The allowances will come from a statewide supply of emissions allowances that will be shrinking steadily over time.

The decision to adopt the deliverer point-of-regulation approach is based on a variety of considerations. Without questioning the overall decision, the GPI does dispute one of the particular rationales used in the PD's argument in favor of its adoption of the deliverer point-of-regulation: "The deliverer point of regulation also improves the ability to report and track emissions in the sector (PD, pg. 5)." In the discussion on the issue in the PD on pages 59 – 60, the text argues, concerning the subject of reporting and tracking requirements for a retail-provider point-of-regulation system:

> While such an option would be theoretically workable, in our judgment the administrative complexity and time required to set up such a system render this among the less preferable alternatives. (PD, page 59.)

The discussion then turns to the PD's preferred deliverer point-of-regulation approach:

> We conclude that the deliverer point of regulation is the most workable. This is because each deliverer is responsible for reporting and tracking the GHG attributes of its power as it is delivered onto the California grid. For in-state generation, generators (or other entities that are responsible for the power when it is delivered to the grid) are tracked, similar to a system in which only in-state generation is capped. Similarly for imports, the party that is responsible for the power as it is delivered to the California grid is held accountable. This removes the need for complete tracking from generation source to delivery to customers, as under the retail provider system … (PD, page 60.)

In fact, the reporting requirements for both in-state generators and for imports are essentially identical in a deliverer or retailer provider point-of-regulation approach. Indeed, recommendations on reporting and tracking regulations designed to be used with either point-of-regulation approach have already been adopted by this Commission (D.07-09-017), the CEC, and the CARB. In addition, adopting the deliverer point-of-regulation approach does **not** remove the need for tracking greenhouse gas emissions from generation source to retail provider. Such tracking is required by statute (Health & Safety Code §38530, from AB 32), as the PD acknowledges on page 77. To be fair, the PD should conclude that there is no significant difference between the deliverer and the retail-provider systems with respect to their requirements for reporting and tracking.

The deliverer point-of-regulation approach is a pure price-signal driven mechanism to achieve reductions in greenhouse gas emissions. In this sense, it acts as a quasi carbon

tax, in terms of how it affects the selection of energy sources. Generators who burn fossil fuels, and importers of fossil-derived power, will have to obtain emissions allowances to offset the greenhouse gas emissions associated with their delivered power, in order to participate in the California market. The cost of the allowances will add to the cost of power that is burdened with associated greenhouse gas emissions, in the process advantaging low- and zero-emissions alternatives that do not require the procurement of offsetting allowances. The only means by which retail providers, who are the primary buyers of the electricity that flows into and within California, will be motivated to adjust their mix of resources, beyond achieving their programmatic obligations for energy efficiency and renewables, is through the price signals they receive from the fossil fuel-burning generators and importers who must obtain allowances to offset their greenhouse gas emissions.

One potential problem with using a system based on price signals alone in the capital-cost-intensive electricity sector is that this sector is generally known to have a low elasticity of demand, which means that it takes a relatively large increase in price in order to elicit a desired increment of decrease in demand for carbon-intensive energy sources. In order to keep the overall price for electricity in the state under control, we support the sentiment in the PD that "the cap-and-trade system need only produce a relatively small portion of the overall emissions reductions in the short term (PD, pg. 33)," with the bulk of the reductions coming from the existing preferred resources programs. Indeed, this only reinforces the need for the Commission to stand by its 2005 endorsement of the EAP's goal of 33 percent renewables content by 2020 in this Decision.

Allowance Allocation and Distribution

The PD discusses some of the issues that must be addressed in determining how to allocate and distribute greenhouse gas emissions allowances in conjunction with the establishment of a cap-and-trade system in California, but it does not make a comprehensive recommendation about how to do so, citing an as-yet insufficient record on which to base such a recommendation. The introduction to this topic in Section 3.4. of

the PD, *Allowance Distribution in a Cap-and-Trade System with Deliverer Point of Regulation*, reads:

> Under a cap-and-trade system, two basic options exist for distribution of emission allowances: they may be auctioned or they may be allocated administratively. A third option is some combination of the two, whereby some emission allowances are auctioned and the rest allocated administratively. There may also be a transition from predominantly free allocations to greater reliance on auctions (PD, pg. 80).

In the first two sentences of this passage the two basic options are correctly identified as auctions or **administrative** allocations. However, in the third sentence the options are referred to as auctions or **free** allocations (emphasis added). In fact, administrative allocations are repeatedly equated with free allocations throughout the PD. This confusion of terms unnecessarily limits the depth and breadth of the discussion in the PD, and should be corrected. As we pointed out in our October 31, 2007, *Comments on Allowance Allocation Issues* in this proceeding, emissions allowances that are administratively allocated do **not** need to be distributed free of charge. That is only one possible method for their distribution. Indeed, applying what we understand to be sound public policy principles, public commodities should **never** be distributed free of charge. Moreover, considering the fact that the PD recommends the creation of a cap-and-trade system that is designed to take advantage of market mechanisms, if administratively-allocated allowances are distributed free of charge no price signal will be generated in the electricity marketplace, and the entire effort will be thwarted. The marketplace cannot promote clean energy if allowances for greenhouse gas emissions are distributed free of charge.

The proper approach, when administrative allocation is the method of choice, is to administratively allocate rights to **purchase** emissions allowances at a pre-determined, administratively-set price. This not only follows the well-established principle that government commodities should not be handed out free-of-charge, it also addresses the concern expressed in the PD that there might be a need to provide for some amount of price stabilization for emissions allowances, at least in the early stages of the program. Selling a significant block of allowances at an administratively-determined price would go

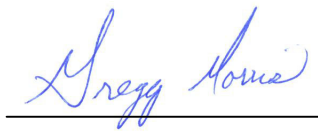
a long way towards providing market-price stability for these commodities. Moreover, assuming that the mix of administrative allocation and auction is weighted towards the former in the beginning of the program, then gradually adjusted towards the auction option over time, the use of allowance sales in conjunction with administrative allocations would also be gradually phased out, as price stabilization becomes less of a concern.

We recommend a simple word change from "free" to "administrative" in the final line of the above-quoted passage from page 80 of the PD, which is necessary to correct the shortcoming identified in the passage. However, fully correcting the PD on this issue will require more extensive modification of the discussion in Section 3.4, including providing a full consideration of administrative allocations with sales of the allowances at predetermined prices, in addition to discussing administrative allocations with free distributions.

Conclusion

The Green Power Institute favors the adoption of the PD with the several changes argued for in these *Comments*. In particular, the Commission should adhere to its EAP commitment to the 33 percent renewables content by 2020 stretch goal for the RPS program, and the PD should be strengthened by including the option of selling allowances that are administratively allocated at a preset price, rather than limiting the discussion to only free allocation of administratively-allocated allowances.

Dated February 28, 2008, at Berkeley, California.
Respectfully Submitted,



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Appendix

Recommended Changes

The GPI recommends the following changes be made to the text of Proposed Decision:

On Page 3, make the following additions to the text:

> For electricity from renewable energy, we recommend that the requirements go beyond the current 20% **by 2010** requirement, **to the EAP's stretch goal of 33% by 2020,** consistent with State policy, but leave open consideration of exact percentage requirements or deadlines, pending further analysis.

On page 80, make the following word change:

> Under a cap-and-trade system, two basic options exist for distribution of emission allowances: they may be auctioned or they may be allocated administratively. A third option is some combination of the two, whereby some emission allowances are auctioned and the rest allocated administratively. There may also be a transition from predominantly ~~free~~ **administrative** allocations to greater reliance on auctions (PD, pg. 80).

Table of Authorities

AB 32
Energy Action Plan II, Implementation Roadmap for Energy Policies
CPUC Decision D.07-09-017

Proposed Changes to Findings of Fact and Conclusions of Law

A. Findings of Fact

Modify FF # 29 as follows: The record in R.06-04-009 is not sufficient, at this time, to determine a reasonable approach for the administrative allocations of GHG emissions allowances, if such ~~free distributions~~ **administrative allocations** are undertaken.

B. Conclusions of Law

Correct the typo in CL # 2 as follows: SB 10~~6~~78 as amended by SB 107 …

PROOF OF SERVICE

I hereby certify that on February 28, 2008, in Berkeley, CA, I have served a copy of the COMMENTS OF THE GREEN POWER INSTITUTE ON THE PROPOSED DECISION OF PRESIDENT PEEVEY upon all parties listed on the Service List for this proceeding, R-06-04-009. All parties have been served by email or first class mail, in accordance with Commission Rules.

Gregory Morris